

REMARKS

Upon entry of the foregoing amendment, claims 8 and 13 are newly cancelled herein. Claims 1, 6, 7 and 9 are newly amended. Claims 1-7, 9-12 and 14-20 are pending in the present application.

Support for the amendments to claim 1 is found, for example, in previous claims 7-9; and elsewhere throughout the specification. Claim 7 is amended to remove the phrase “capable of” and to delete elements now found in independent claim 1.

Claim 9 is amended to depend from claim 1.

Applicants, by canceling or amending any claims herein, makes no admission as to the validity of any rejection made by the Examiner against any of these claims. Applicants reserve the right to reassert any of the claims canceled herein or the original claim scope of any claim amended herein, in a continuing application.

The amendments are not believed to add new matter and entry is respectfully requested.

REJECTIONS

REJECTION UNDER 35 USC §102(b)

At page 2 of the Office Action, claims 1-8, 11-13, 19 and 20 are rejected under 35 USC § 102(b) as being anticipated by Blevins (US Pat. No. 6,206,608) [‘608]. The rejection is respectfully traversed. Claims 8 and 13 are newly cancelled. Claims 1, 6, 7 and 9 are newly amended herein.

As stated above, amended claim 1 incorporates subject matter previously included in claims 7 to 9. Therefore, claim 1 does not lack novelty in view of US 6,206,608 because the ‘608 patent was not previously anticipatory of claim 9. In addition, newly

added part (d) of claim 1 recites a number of features not explicitly disclosed or rendered obvious by the cited '608 patent:

- (i) the arresting means is deformable;
- (ii) the arresting means is composed of a plurality of hollow tubular elements, a cable passing through each tubular element;
- (iii) each tubular element is adapted for fixing one of said flexible members thereto.

Regarding feature (i), it is to be noted that the '608 patent nowhere discloses nor suggests that the bar 5 is, or should be, "deformable." To the contrary, the '608 patent teaches away from such a feature and instead explicitly discloses that the "*bar is made of a rigid material, such as steel, and contact of the bar with the vehicle frame will serve to both prevent rotation of the tire and make steering of the wheel difficult*" (see, for example, column 3, lines 60-63).

Regarding feature (ii), it is also to be noted that the '608 patent nowhere discloses nor suggests such a feature. Rather, the '608 patent discloses that the "*invention is a solid bar...*" (see, for example, column 1, line 62; also, column 2, line 37).

As the Examiner is aware, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). In the instant case, the '608 patent does not disclose, *inter alia*, a deformable arresting means composed of a plurality of hollow tubular elements with a cable passing through each tubular element.

Thus, because the '608 patent does not teach each and every element of claim 1, the '608 patent does not anticipate claim 1, or claims 2-7, 11, 12, 19 and 20 dependent therefrom. Reconsideration and withdrawal of the rejection is respectfully requested.

REJECTIONS UNDER 35 USC § 103

A. REJECTION OF CLAIMS 9, 10, 14 AND 18 OVER BLEVINS (US PAT. NO. 6,206,608) ['608]

At page 2 of the Office Action, claims 9, 10, 14 and 18 are rejected under 35 USC § 103(a) as being unpatentable over Blevins (US Pat. No. 6,206,608) ['608] as applied above. The rejection is respectfully traversed. Claims 8 and 13 are newly cancelled. Claims 1, 6, 7 and 9 are newly amended herein.

Regarding obviousness, Applicants respectfully disagree that claim 1, or the dependent claims, are rendered obvious by the cited '608 patent. Applicants' arguments regarding the teachings of the '608 patent above are pertinent herein to independent claim 1, and dependent claims 2-7, from which rejected claims 9, 10, 14 and 18 directly or indirectly depend. Therefore, Applicants' arguments are incorporated herein by reference in their entirety.

The Examiner states, regarding original claim 9, that:

"there appears to be a single rod; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a plurality of bars as needed in order to facilitate compact storage, for example. Note that this is simply making a unitary structure from a plurality of pieces which cannot patentably distinguish an apparatus."

However, contrary to the Examiner's assertions, it is not a question of simply replacing "a unitary structure with a plurality of pieces." Feature (ii), discussed above, includes a plurality of hollow, tubular elements, having a cable pass through them, and this is not the same as a "plurality of bars" suggested by the Examiner. There is certainly no motivation whatsoever for replacing such "plurality of bars" with tubular elements, and less so for also providing a cable running through them. In fact, providing a flexible

cable at all seems to be at odds with the required rigidity of the bar 5 as suggested or disclosed in the '608 patent, for example, in column 3, lines 60-63.

Thus, the configuration of feature (ii) differs in at least three aspects from the '608 patent:

- a single bar to a plurality of bars;
- a plurality of bars to a plurality of tubular elements;
- then adding a cable running through the tubular elements.

Feature (ii) is more complex than a simple solid bar or a plurality of bars, and it is to be noted that the '608 patent teaches away from such complexity (see, for example, column 1, lines 56, 57).

The configuration of feature (ii) further enhances the deformability of the arresting means, and as argued above regarding feature (i), the '608 patent teaches against this. This configuration of feature (ii) also facilitates assembly, disassembly, repair and storage of the device. The Examiner states that "*it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a plurality of bars as needed in order to facilitate compact storage*". However, the '608 patent explicitly poses as one of its aims "*to provide a disabling device that is easily stored and deployed*" (column 1, lines 54, 55), and the '608 patent indicates that is fully satisfied that the invention as disclosed (i.e. with solid bar 5) already provides the disclosed vehicle disabling device with the feature that it "*can be easily stored or transported for deployment when needed*" (column 4, lines 5-6). Accordingly, one of ordinary skill in the art would not be further motivated to further facilitate storage, especially if this would involve greater manufacturing complexity regarding which the '608 patent teaches against, as indicated previously.

Regarding feature (iii), even if for the sake of argument the unitary solid rod 5 of this reference were to be replaced with a plurality of tubular elements, there is still no

disclosure or suggestion that each such tubular element is or should be adapted for fixing one of said flexible members thereto.

Regarding claim 9, there is no motivation whatsoever in the '608 patent to provide a cable in the first place (and the rigidity of rod 5 of the '608 patent teaches against this), less so to provide two end fittings fixed to such a cable so as to hold the tubular elements together.

Regarding claim 10, which depends from claim 9, there is even less motivation from the '608 patent to provide end fittings in which at least one of the two end fittings is fixed releasably to said cable so as to enable replacement of the tubular elements and said elongated elements, and/or adjustment of the width of said device.

In view of the amendments to the claims and arguments above, reconsideration and withdrawal of the rejection is respectfully requested.

B. REJECTION OF CLAIMS 14-17 OVER BLEVINS (US PAT. NO. 6,206,608) ['608] AND FURTHER IN VIEW OF SHACKELFORD (US PAT. NO. 7,201,531) ['531]

At page 3 of the Office Action, claims 14-17 are rejected under 35 USC § 103(a) as being unpatentable over Blevins (US Pat. No. 6,206,608) ['608] and further in view of Shackelford (US Pat. No. 7,201,531) ['531]. The rejection is respectfully traversed. Claims 8 and 13 are newly cancelled. Claims 1, 6, 7 and 9 are newly amended herein.

Shackelford '531 fails to cure the deficiencies of the '608 patent, discussed above, and incorporated herein in their entirety. The '531 patent discloses, *inter alia*, a device for stopping a moving vehicle comprising a strip to be placed on a roadway in front of the vehicle to be stopped which has a plurality of spikes. A cable is attached to the spikes which unwinds and entwines the axle of the wheels. The '531 patent does not disclose, or suggest a deformable arresting means comprising a plurality of hollow generally tubular elements as claimed in claim 1.

The rejection of claims 14-17 is rendered moot due to the dependency (directly or indirectly) of claims 14-17 from now allowable claim 1. In view of the amendments to the claims and arguments above, reconsideration and withdrawal of the rejection is respectfully requested.

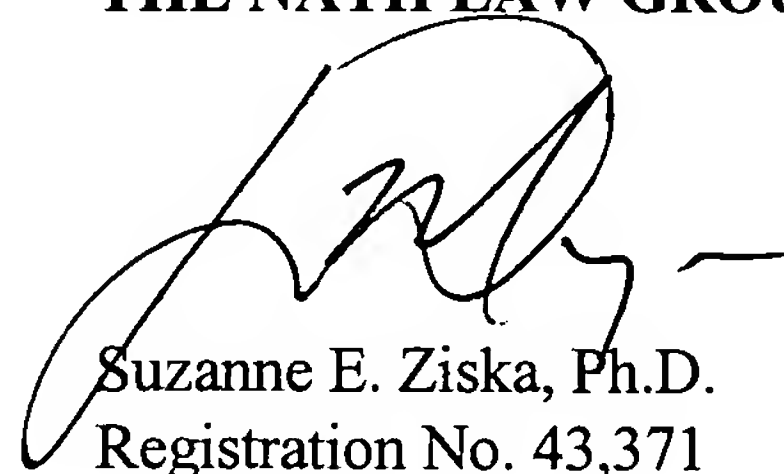
CONCLUSION

Applicants assert that the claims are in condition for immediate allowance and early notice to that effect is earnestly solicited. Should the Examiner deem that any further action by Applicants' undersigned representative is desirable and/or necessary, the Examiner is invited to telephone the undersigned at the number set forth below.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

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